

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL GOINES,

Plaintiff,

-against-

**NOTICE OF MOTION
TO DISMISS**

07-CV-05448 (CM)

THE CITY OF NEW YORK, COMMISSIONER
RAYMOND KELLY, P.O.SUPERVISOR JOHN DOE #1;
P.O. GREGORY CLARKE, and DENNIS RUSSO, the
individual defendants sued individually and in their official
capacities,

Defendants.

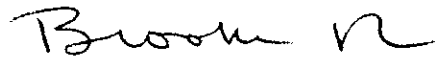
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PLEASE TAKE NOTICE that, defendants City of New York, Commissioner Raymond Kelly and Gregory Clarke will move this Court before the Honorable Colleen McMahon, United States District Judge, at the United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York at a date and time to be determined by the Court, for dismissal of the complaint with prejudice, pursuant to Rule 12(c) or, in the alternative, for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and in accordance with Judge McMahon's individual practices, on the grounds that the defendants' are entitled to qualified immunity on some or all of plaintiff's claims.

PLEASE TAKE FURTHER NOTICE that such motion will be submitted following the prescribed period of discovery set forth in the Court's Individual Practices.

Dated: New York, New York
September 5, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 3-142
New York, New York 10007
(212) 676-1347

By: 

Brooke Birnbaum (BB 8338)
Assistant Corporation Counsel
Special Federal Litigation Division

To: Mr. Michael Hueston, Esq. (By ECF and By Mail)

DECLARATION OF SERVICE BY MAIL

I, Brooke Birnbaum, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that on September 5, 2007, I served the annexed NOTICE OF MOTION upon the following counsel of record by depositing a copy of same, enclosed in a first class postpaid properly addressed wrapper, in a post office depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to said counsel of record at the address set forth below, being the address designated by plaintiff for that purpose:

Mr. Michael Hueston, Esq.
350 Fifth Avenue
Suite 4810
New York, NY 10118

Dated: New York, New York
September 5, 2007



Brooke Birnbaum
Assistant Corporation Counsel
Special Federal Litigation Division

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MICHAEL A. CARDOZO

*Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007*

*Of Counsel: Brooke Birnbaum
Tel: (212) 676-1347
NYCLIS No.*

Due and timely service is hereby admitted.

New York, N.Y., 200..

..... Esq.

Attorney for